



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,873	07/17/2003	Douglas William McIlwraith	CUL-0007	2753

7590 03/09/2005

Michael A. Cantor  
Cantor Colbourn LLP  
55 Griffin Road South  
Bloomfield, CT 06002

EXAMINER

WINNER, TONY H

ART UNIT	PAPER NUMBER
----------	--------------

3611

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/622,873

Applicant(s)

MCLLWRAITH, DOUGLAS  
WILLIAM

Examiner

Tony H. Winner

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 10 is/are allowed.
- 6) ☒ Claim(s) 2-4 and 11 is/are rejected.
- 7) ☒ Claim(s) 5-9 and 12-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Acknowledgment***

1. Receipt of the amendment filed 12/10/04 has been acknowledged and entered. Claim 1 has been canceled. New claims 11-15 have been added. In view of the amendment, the office is withdrawing all claim objections and rejection.

***Withdraw Previously Allowed Claims***

2. The indicated allowability of claims 2 and 3 are withdrawn because it came to the examiner attention that according to MPEP 2113 "Even though product by process claims are limited by and defined by the process, determination of patentability is based on the product itself.' Therefore, the office regrets the early indication of allowability of claims 2 and 3 and that reference to Wilkinson (U.S. patent 6,296,328 B1) is readable on the claimed invention. Rejection is based on the newly cited reference as follow.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkinson (U.S. patent 6,296,328 B1).

Wilkinson discloses a skid-steer vehicle having at least a pair of wheels on each side thereof, a track mounted on each pair of wheels and comprising a tread

section of a tire, wherein each of the wheels comprises a hub having a pneumatic tire thereon.

With regard to claims 4 and 11, Wilkinson discloses all of the claimed limitations.

### ***Response to Arguments***

4. Applicant's arguments filed 12/10/04 have been fully considered but they are moot in view of the rejection above.

### ***Allowable Subject Matter***

5. Claims 5-9 and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 9-10 are allowed because the prior art neither shows or teaches a skid-steer vehicle with an upright guide disk mounted on at least one side of each of the wheel, each of the disk being located adjacent an associated edge of the track on the respective side of the vehicle.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (703) 306-5957. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris, can be reached at (703) 308-0629. The fax

phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



**TONY WINNER**  
**PATENT EXAMINER**

March 6, 2005